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6 IN THE UNITED STATES DISTRICT COURT  
7  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9

10 STARBOARD COMMERCIAL  
11 BROKERAGE, INC.,

12 Plaintiff,

13 v.

14 COLLIER'S INTERNATIONAL GROUP INC.,  
15 individually and as successor-in-interest to Case  
16 Commercial Partners LLC, and DOES 1 through 10,  
17 inclusive,

18 Defendants.  
19 \_\_\_\_\_/

No. C 16-06421 WHA

**ORDER RE  
JURISDICTIONAL  
DISCOVERY**

20 **INTRODUCTION**

21 This order arises out of a game of “hide the ball” necessitating at least the discovery  
22 relief prescribed at the end, all of which could have been avoided up-front by a simple answer.  
23 Our story concerns a plaintiff trying to make sense out of a maze of affiliates to figure out who to  
24 sue and a defendant refusing to give a straight answer — yet now wanting to be dismissed as the  
25 “wrong” defendant.

26 **STATEMENT**

27 Plaintiff Starboard Commercial Brokerage, Inc., is a corporate real estate firm, primarily  
28 engaged in handling commercial and industrial transactions, focusing on sales and leasing.  
Starboard is incorporated and maintains its principal place of business in California (Compl. ¶ 1).  
Defendant Collier's International Group, Inc., is also a real estate firm. In May 2015, Collier's

1 International Group, Inc., allegedly acquired the real estate firm CASE Commercial Partners,  
2 LLC, a Texas limited liability corporation, and became its successor-in-interest (*id.* ¶¶ 2–3).

3 The background is straightforward and concerns a debt. In 2001, Starboard entered into a  
4 written membership agreement with The Commercial Network Worldwide. So did CASE in  
5 2010. The agreements assigned territories in which TCN’s members would provide real estate  
6 services, created a reporting and compensation structure including paying portions of  
7 commissions to TCN, and obligated members of TCN to assign prospects and clients to other  
8 members’ territories in exchange for referral fees (*id.* ¶¶ 5–7). In 2011, Starboard began to  
9 represent HealthMedica, LLC, a San Francisco-based company, to find a new lease for its office.  
10 Later that year, Starboard referred HealthMedica to CASE pursuant to their respective  
11 membership agreements with TCN. In pursuit of its new client, a representative of CASE  
12 traveled to San Francisco to meet with HealthMedica and finalize and execute a representation  
13 agreement. HealthMedica executed the agreement retaining CASE as an agent in San Francisco  
14 (*id.* ¶¶ 9–10).

15 CASE and Starboard then negotiated an assignment/referral agreement. CASE agreed to  
16 pay Starboard ten percent of any fees earned by CASE from HealthMedica. In accordance with  
17 the arrangement, CASE paid fees to TCN and a ten-percent referral fee to Starboard for 28  
18 separate transactions from October 2012 through March 2013. Thereafter, CASE acknowledged  
19 that it had earned another \$300,000 in commissions from HealthMedica, and therefore owed  
20 Starboard another \$30,000 in referral fees. CASE, however, contended that it would hold the  
21 payment owed against possible liabilities for attorney’s fees and costs related to a dispute then  
22 brewing between HealthMedica and CASE. In 2013, Starboard demanded payment of the fees  
23 from CASE, who refused (*id.* ¶¶ 11–13). In addition to the \$30,000, Starboard determined that  
24 CASE also owed additional fees pursuant to the referral arrangement, flowing from additional  
25 commissions generated by CASE’s representation of HealthMedica, both prior to and after  
26 Collier’s International’s acquisition of CASE.

27 Starboard retained counsel to sue CASE. In doing his homework, however, counsel  
28 learned that CASE had been recently acquired by “Collier’s International,” according to a press

1 release. Counsel corresponded with internal and external counsel for “Collier’s International”  
2 in an effort to pin down the correct name of the proposed defendant but never got any answer  
3 identifying the entity Collier’s International now says should have been sued. Rather, the  
4 internal and external counsel said they represented “Collier’s International” or “Collier’s.” So,  
5 based on the press release and those communications, Starboard’s counsel sued “Collier’s  
6 International Group, Inc.” Neither the press release, nor the e-mails with Collier’s counsel called  
7 out that “Collier’s International North Texas, LLC” is the acquiring entity or the proper entity to  
8 sue. In fact, no mention was ever made of “Collier’s International North Texas, LLC.” Even  
9 now, defendant fails to explain how counsel could have figured out the proper entity.

10 Starboard filed the complaint in the San Francisco Superior Court in June 2016. Collier’s  
11 International removed the action to federal court here in San Francisco based on diversity  
12 jurisdiction. Counsel for both sides represent that the jurisdictional amount of \$75,000 is  
13 satisfied. Defendant now moves to dismiss for lack of personal jurisdiction and for failure to  
14 state a claim. This order follows full briefing and oral argument.

### 15 ANALYSIS

16 Starboard contends for both specific and general jurisdiction. Collier’s International  
17 does not dispute that CASE’s execution of the agreement underlying this dispute, an agreement  
18 concerning a real estate transaction in the forum, would be sufficient to make CASE amenable  
19 to specific jurisdiction. The only dispute is whether CASE’s obligations were assumed by  
20 defendant versus some other Collier’s entity.

21 In its opening memorandum, Collier’s International argues that it did not acquire CASE,  
22 but rather, a subsidiary, “Collier’s Texas,” acquired it (Def.’s Mtn. at 5):

23 In reality, Collier’s International has no direct connection to the  
24 contract, referral arrangement, or any of the California work for  
25 which commissions may or may not be owed. Collier’s  
26 International is not a party to the contract; it did not enter into a  
27 referral arrangement with Plaintiff; and it did not perform any of  
28 the work at issue in this case. Furthermore, it did not acquire Case  
or assume any of Case’s responsibilities or liabilities. Collier’s  
Texas, a separate, distinct entity, acquired Case.

In other words, after all of plaintiff counsel’s efforts and after the lawsuit was framed,  
the defense has drawn a distinction between “Collier’s International Group, Inc.” (which has

1 appeared as our defendant) versus “Collier’s Texas,” and further saying for the first time that  
 2 “Collier’s Texas” was the one who had acquired CASE. Defendant therefore contends it never  
 3 became CASE’s successor-in-interest and, thus, cannot be subject to personal jurisdiction (based  
 4 on CASE’s contacts with the forum). At no time prior to the complaint did defendant’s  
 5 representatives or website or press release mention “Collier’s International North Texas, LLC,”  
 6 or anything close.

7 Collier’s International offers the declaration of Dylan Taylor, President and Chief  
 8 Operating Officer of Collier’s International, to support its position, stating that (Taylor Decl.  
 9 ¶ 4):

10 CIGI did not purchase or acquire Case Commercial Partners, LLC  
 11 (“Case”). A separate and distinct Texas company, Collier’s  
 12 International North Texas, LLC (“Colliers Texas”) acquired and  
 13 now wholly owns Case. Moreover, CIGI does not even directly  
 14 own Colliers Texas. Another separate and distinct Delaware  
 company, Colliers International WA, LLC, wholly own Colliers  
 Texas. Thus, CIGI, Colliers Texas, and Case are all separate,  
 independent, and distinct entities.

15 The main point of the instant motion, namely that Collier’s International had nothing to  
 16 do with the acquisition, has been impeached by Collier’s International’s own website, as follows.

17 Below is a screenshot from [http://www.colliers.com/en-us/about/media/press-releases/](http://www.colliers.com/en-us/about/media/press-releases/colliers-international-acquires-case-commercial-real-estate-texas)  
 18 [colliers-international-acquires-case-commercial-real-estate-texas](http://www.colliers.com/en-us/about/media/press-releases/colliers-international-acquires-case-commercial-real-estate-texas) as viewed by the Court on  
 19 January 24, 2017:



1 Contrary to the declaration, the website flat-out asserts that “Collier’s International”  
2 acquired CASE. The Court is disappointed that counsel for Collier’s International neglected to  
3 bring this severe contradiction to the Court’s attention in its motion and addressed it only in its  
4 reply (after the opposition exposed the contradiction).

5 Prior to filing this complaint, counsel for Starboard, in figuring out which entity to sue,  
6 reached out to Santino Ferrante of Ferrante & Associates, outside counsel representing “Collier’s  
7 International,” and Kiersten Weinberger, in-house counsel at Collier’s International. The e-mail  
8 exchange between Starboard’s counsel and the attorneys for Collier’s International epitomizes a  
9 classic runaround (Hansson Decl. Exhs. A–D). Outside counsel for Collier’s referred to his  
10 client as “Collier’s International” and “Collier’s” — never in any way referring to “Collier’s  
11 International Group, Inc.” When explaining the dispute to inside counsel Weinberger, counsel  
12 for Starboard said, “I understand Colliers acquired Case.” In her response (four months later),  
13 inside counsel Weinberger never explained that a different Collier’s entity acquired CASE, but  
14 merely stated that “Collier’s International” and “Collier’s” had no obligation in connection to the  
15 acquisition of CASE. All Collier’s counsel obfuscated the supposed distinction between  
16 “Collier’s International Group, Inc.,” and “Collier’s International North Texas, LLC,” never  
17 even mentioning those names. At oral argument counsel for Collier’s International claimed the  
18 e-mail exchange with counsel for Starboard commenced after Starboard filed the complaint in  
19 June 2016. The e-mails attached to the declaration of Starboard’s counsel tell a different story  
20 (Matthews Decl. Exh. C). Starboard’s counsel reached out to both external and internal counsel  
21 of Collier’s International beginning in May 2016. Although it is true that internal counsel  
22 Weinberger replied only after the complaint was filed, external counsel Ferrante replied 71 days  
23 before Starboard filed the complaint. Furthermore, internal counsel could have clarified who the  
24 correct defendant should have been, but neglected to do so.

25 Starboard further conducted Internet research to uncover what entity was proper to  
26 pursue in this action only to find that “Collier’s International” proclaimed it had acquired CASE,  
27 as the screenshot above shows (Matthews Decl. ¶¶ 2–5, Exhs. A–D). The Court itself has been  
28 trying to understand the Collier’s maze. Reviewing the website [www.colliers.com](http://www.colliers.com) that

1 published the press release, one sees headings like “554 offices in 66 countries on 6 continents,  
2 Collier’s International is a global leader in commercial real estate services,” leaving the  
3 impression that all Collier’s worldwide operate as one under the trade name “Collier’s  
4 International.”

5 Not only is the heading of the website, and every subpage on it, embroidered with a logo  
6 that reads “Collier’s International,” the website also globally refers to all offices as “Collier’s  
7 International (name of location),” differentiating the various offices not as separate legal entities,  
8 but only by geography. When a visitor clicks on the option “Change location,” the visitor is  
9 presented with a list of cities in which Collier’s International practices. By clicking on the link  
10 of the “United States” offices, and then on “Dallas,” the visitor is steered to a site titled  
11 “Collier’s International, Dallas Fort-Worth.” When navigating to the site for the office in  
12 Toronto, the heading reads “Collier’s International, Canada.” It is not stated the two offices are  
13 separate legal entities or that the office in Toronto is “Collier’s International Group, Inc.,” and  
14 the office in Dallas is a separate legal entity called “Collier’s International North Texas, LLC.”  
15 The latter name is never referenced.

16 Furthermore, on the homepage of [www.colliers.com](http://www.colliers.com), there is a banner titled “Welcome to  
17 Collier’s International, Collier’s International Group, Inc. (NASDAQ and TSX: CIGI),” under  
18 which a video is posted titled “Who is Colliers International?” The video boasts the line, “We  
19 are proud to be the advancer of choice of many of the world’s most innovative companies.”  
20 By treating their customers around the world as one client portfolio of one entity, a visitor is  
21 once again left with the impression that Collier’s offices operate as one.

22 Nor does the press release save defendant. The title of the press release stated, “Collier’s  
23 International acquires CASE Commercial Real Estate Partners,” leaving the impression that  
24 “Collier’s International,” not “Collier’s International North Texas, LLC” (not even mentioned),  
25 had purchased CASE. The release referenced the “North Texas Regional Managing Director,”  
26 leaving the impression that Collier’s International managed its North Texas operations through a  
27 regional manager. Collier’s International, it seems, would like to reap the benefits of presenting  
28 itself to the world as one international company but when it comes to legal disputes, dredges up

1 corporate veils. To repeat, at no time prior to the complaint did defendant's representatives or  
2 website or press release mention "Collier's International North Texas, LLC," or anything close.

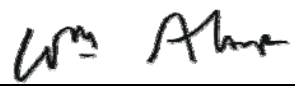
3 In these circumstances, equity might possibly estop "Collier's International" from  
4 denying that it acquired CASE, as it told the world in its release. If the jurisdiction protest by  
5 Collier's International is to be entertained, then plaintiff's counsel should, in fairness, be  
6 afforded the opportunity to take discovery into the truth of the matter. The motion to dismiss  
7 will be held in abeyance pending jurisdictional discovery as follows. Starboard shall be entitled  
8 to two full-day and three half-day depositions, twenty requests for production of documents  
9 (no subparts), and twenty interrogatories (no subparts), all directed at the jurisdiction issue.  
10 Stonewalling will lead to adverse inferences. Overbroad discovery requests will lead to deletion  
11 without replacement. Counsel shall cooperate to expedite discovery. Discovery may cover and  
12 include the alter ego relationships between and within the entire constellation of Collier's  
13 entities. All jurisdictional discovery shall be completed by **MARCH 23, 2017**. Starboard shall  
14 supplement the record by **MARCH 30** including a brief up to **FIFTEEN PAGES** (not counting the  
15 evidence supplement), and Collier's International may likewise respond by **APRIL 13**. A further  
16 hearing is hereby scheduled for **APRIL 27 AT 8:00 A.M.** Please do not ask for extensions.  
17 Whether Collier's International must reimburse plaintiff's counsel for the cost of this discovery  
18 (due to its obfuscation) will be decided later.

### 19 CONCLUSION

20 For the foregoing reasons, defendant's motion to dismiss is **HELD IN ABEYANCE** pending  
21 jurisdictional discovery.

22  
23 **IT IS SO ORDERED.**

24  
25 Dated: February 2, 2017.

26   
27 WILLIAM ALSUP  
28 UNITED STATES DISTRICT JUDGE